

HOUSE OF REPRESENTATIVES, Jan. 15, 1864.—Referred to the Committee on Claims and ordered to be printed.

[By Mr. STAPLES.]

## GEN. TOCHMAN'S CASE.

*To the Honorable the Senate and House of Representatives of the Confederate States of America.*

I have the honor to communicate to your honorable body copies of lately passed correspondence between the Secretary of War and myself, respectfully begging you that it may be considered conjointly with other papers, relating to my claim of brigadier's salary, or of refunding to me expenses actually incurred in raising my brigade, being now before the Committee on Claims of the House of Representatives.

With great respect, I am,

Your most obedient servant,

G. TOCHMAN.

RICHMOND, VA., Jan. 13, 1864.

## GEN. TOCHMAN TO MR. SEDDON.

RICHMOND, VA., Jan. 2, 1864.  
No. 107, Spotswood Hotel.

Hon. JAMES A. SEDDON,

*Secretary of War Confederate States.*

SIR: I do not find recorded in the document's office of your Department the letter which I addressed, and personally handed to you, on the 4th of December last, requesting you to review your decision therein referred to, in the case relating to the claim, either of brigadier's salary, due me for the period I raised my brigade, (its troops being in the service of the Confederate States since the commencement of this war,) or of refunding to me five thousand nine hundred and twenty-five dollars, in gold, and one thousand six hundred dollars in the currency of the Confederate States, expended in raising that brigade, &c.—its command having been taken from me without cause attributable to me.

Anxious to bring this matter to a final issue, to enable me to go to Europe, to help my native land (Poland) in her present struggle,

I have, almost simultaneously with handing that letter to you, addressed myself to Congress, too; and the case is now before the Committee on Claims, as you will see by reference to the enclosed record, (printed by order of the House,) and a copy of the letter I subsequently addressed to the Chairman of the Committee on Foreign Affairs, to which this case was originally referred. But it is obvious that your decision, whatever it may be, would enable that committee to take up the case and report it sooner than they can do it without hearing from you.

There are only two ways of bringing this case to its proper conclusion. The record before you settles the fact that the command of troops I raised, under the express agreement that I would command them, was taken from me without a cause attributable to me. If, then, the President is disposed to do me full justice, it is in his power to do so, by directing you to issue my brigadier's commission, dating from the time I reported my brigade raised. If he persists in his unwillingness to do me this justice,

"The mild beauty of my name I boast,  
And find my empire there!"

And respectfully beg you to recommend to Congress that my expenses (five thousand nine hundred and twenty-five dollars, in gold, and one thousand six hundred dollars in the Confederate States currency) be refunded to me:

This last request, I hope, will not be objected to; for this is the only way of settling this matter, when the President has already directed you to "notice my claim for money, as it shall be found to relate to any object for which the funds of your Department are applicable," (page twelve of the enclosed record,\*) and when you have decided that you "have not been invested with the power or means of paying for official services where no commission had been issued." (The same page of the enclosed record.)

I have the honor, sir, to be,

Your most obedient servant,

G. TOCHMAN.

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GEN. TOCHMAN TO MR. FOOTE.

RICHMOND, VA., Dec. 16, 1863.

HON. H. S. FOOTE:

DEAR SIR: Hon. W. P. Miles, Hon. J. McQueen, and several other members of Congress, are of the opinion that the Committee on Foreign Affairs cannot take cognizance of my claim, set forth in the letter I addressed to you, as the chairman thereof, on the 5th of December. They consider the motives stated in that letter, which led me to submit the case to the "cognizance, mediation or recommendation,"

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\*It refers to the record printed by order of the House, December 10, 1863.

of the Committee on Foreign Affairs, to be "incidental," and the claim of brigadier's salary, or of refunding me the expenses incurred in raising my brigade, as the subject settling the jurisdiction of the case, which, in their opinion, belongs exclusively to the Committee on Claims. It has not been my intention to have the benefit of preference of either of these two committees. I begged you to have referred this case to the Committee on Foreign Affairs solely because it appeared to me that the State policy set forth in my letter to the Secretary of State was paramount to my pecuniary claim. When, however, there appears to be a difference of opinion on this point, I yield mine, and respectfully beg you, and the committee over which you preside, to secure its unanimity by recommending that this case be referred to the Committee on Claims.

With the assurance of regard,

I have the honor to be,

Your most obedient servant,

G. TOCHMAN.

MR. SEDDON TO GEN. TOCHMAN.

CONFEDERATE STATES OF AMERICA, }  
 War Department, }  
 Richmond, Va., Jan. 7th, 1864. }

G. TOCHMAN, Esq., *Richmond, Va. :*

SIR: I have received and considered your letters of the 4th of December, 1863, and the 2d inst., relative to your claim for expenses incurred in raising troops for the Confederate service.

On a review of the whole case presented by you, I cannot see that injustice has been done you. The nature of the authority given you, manifestly, in my judgment, shows that the troops were to be raised abroad; else why the stipulation that officers should be sent to enlist them? The reference to the regiments, with the officers, if acceptable, are all the same view. Troops could not be enlisted abroad; they could only be engaged to come in. Hence, they had to be enlisted by Confederate authorities here. Officers, too, might be engaged abroad, and arrangements were made to accept them, likewise. No pecuniary claim could arise against the department unless from a commission issued, and as that of brigadier general was not conferred, no power for the pay of such office or its equivalent can exist. Besides, the matter had long been determined before my connection with this department. I do not see the force of equities presented in the case, but if they exist, they pertain to the jurisdiction of Congress, and would not justify any action or recommendation on my part.

Your obedient servant,

JAMES A. SEDDON,

*Secretary of War.*

## GEN. TOCHMAN TO MR. SEDDON.

RICHMOND, VA., Jan. 12th, 1864.

To Hon. JAMES A. SEDDON,

*Secretary of War, C. S. :*

SIR: On the 17th of February, 1863, you wrote to me a letter, which reads as follows:

"Your claim for services as *recruiting agent* is apparently a just one, but Congress has not afforded to this department the power or means of paying for official services in cases where no commission has been issued. A great many claims of *this nature*, whose merits are not denied, have been rejected for this reason. The department has recommended to Congress to make some provision for them, and until that is done, it is without power or means to act.

"Respectfully,

JAMES A. SEDDON,

*"Secretary of War."*

By an answer, bearing the date of March 2, 1863, I have corrected your *misconstruction* of the authority under which I raised my brigade, informing you therein, that I have never acted in the capacity of a recruiting agent; that, being a field officer of the Polish army, in 1830 and 1831, I would have never sacrificed my property in the United States, the welfare of my family I left there, and all my prospects at the North, to be a mere recruiting agent, my most sincere devotion to the cause of the Confederate States, notwithstanding; that I raised that brigade of troops *for my own command*, which was taken from me in violation of the authority stipulated for under the provisions of the act of Congress, No. 109, approved May 8, 1861, and accepted by me from your predecessor, Mr. Walker; and I respectfully requested you to inform me what occasion gave place to your addressing me as a *recruiting agent*.

Your reply bearing date of March 4, 1863, was as follows:

"Your letter of the 2d instant, has been received. In reply, you are respectfully informed that the Department, in its letter of the 17th ultimo, *had no intention of disparaging the character or justice of your claims*, but merely desired to communicate the fact that Congress had not invested it with the power to acknowledge and pay them."

Respectfully,

JAMES A. SEDDON,

*Secretary of War.*

After this reply, which I considered as disclaimer of the *offensive* construction of that authority under which I raised my troops, you again returned to that *offensive* construction in the letter bearing date January 7, 1864, addressed to me in answer to the claim, either of paying me brigadier's salary for three years, this being the period for which I raised my brigade, and its regiments being in service of the Confederate States since the commencement of the war; or, of refunding to me five thousand nine hundred and twenty-five dollars in gold, and one thousand six hundred in the currency of the Confede-

rate States, actually expended in raising those troops, &c., exclusive of heavy losses in property, &c., to which my siding with the South has submitted me; which last mentioned losses I consider as the result arising from the ordinary incidents of war, and claim nothing therefor.

In that letter, bearing date of January 7, 1864, you say: "On a review of the whole case presented by you, I cannot see that injustice has been done you."

And to support this, your view of my case, you allege—

"The nature of the authority given you, manifestly, in my judgment, shows that the troops were to be raised abroad; else why the stipulation that officers should be sent to enlist them? The reference to the regiments with the officers, if acceptable, are all the same view."

Now, sir, the record on file in your Department shows, that though the President endorsed on the bundle of my papers filed in Montgomery, Ala., "*appointed colonel May 11, 1861, file carefully,*" my regular commission was not issued. The authority under which I raised my troops, was addressed to me as major, which rank I held in the Polish army in 1830-31. The regular commission was to be issued when I raise my troops: of colonel, if I raised one regiment, and of brigadier, if I raised a brigade; which privilege was extended and granted to me by that authority, subsequently to the foregoing endorsement, "*appointed colonel May 8, 1861.*" It is obvious, then, that not being a regularly commissioned officer of the army of the Confederate States at the time of raising my troops, I could not enlist or muster into service my men. An agency of commissioned officers to do this was required, and as it was not expected that I could raise all my troops in *one place* in the Confederate States, being allowed to accept but a small number of the natives of this country, it was stipulated and inserted in the authority accepted by me, that "*such officers of the army, as may be necessary, will be detailed at such points within the Confederacy, as I may indicate, to enlist the men.*" That so was understood at the time of my accepting that authority, and so must be understood now "*the stipulation that officers should be sent to enlist the men,*" and not so as you have been pleased to construe it, proves the fact, which cannot be over-leaped by any cavil, that your predecessor, Mr. Walker, who stipulated with me for raising these troops and drew the authority, knew where I was raising them, and fully endorsed my proceedings in this respect, as the following official correspondence, herein attached in a printed cut, shows it:

#### TELEGRAPHIC DISPATCHES.

1st. *From the Secretary of War.*

"Dated Richmond, June 19, 1861. Received, New Orleans, June 19, 1861, ——— o'clock, ——— min. M."

*To Col. Gasper Tochman:*

"Our supply of arms is so limited that you had better not undertake to raise exceeding a regiment.

L. P. WALKER."

2d. *Answer to above, by telegraph.*

"HEADQUARTERS OF THE POLISH BRIGADE, C. S. A., }  
 "New Orleans, La., 57, St. Charles Street, June 20, 1861. }

"Hon. L. P. Walker, Secretary of War, Richmond, Va. :

"Twenty companies are already raised, uniformed and drilling, here, and some in Mississippi; seven mustered into service and encamped at Amite. Six were to be mustered in to-day, and the rest on Saturday. Should you curtail me now to one regiment, it would cause a good deal of trouble, loss and dissatisfaction. The confidence of those who responded to my proclamation would be irretrievably lost, and the favorable reaction amongst the foreigners, which the announcement of my forming the Polish Brigade has elicited in Missouri and the North, would be checked. Please, then, advise with the President. I will keep up the work quietly, until further orders. Should you send me arms immediately, the whole Brigade would take the field in less than thirty days.

"G. TOCHMAN."

3rd. *Secretary's answer to the above, by telegraph.*

"Dated Richmond, June 20, 1861. Received, New Orleans, June 20, 1861"

"To Col. G. Tochman :

"If the companies are raised, of course I shall not interfere. Let them be mustered into service.

"L. P. WALKER."

It follows, from the foregoing facts, established by this official correspondence, which is conclusive, and settles the interpretation of my authority in question, that "the reference to the regiments, with the officers, if acceptable," has no other meaning than the assurance stipulated that such officers, as I may bring into service with my regiments, should be accepted by the Government, if there was nothing objectionable to their character. And this pledge of your predecessor was fully respected. Only one officer, Frank Schaller, Major of the 2d Polish regiment of my brigade, which is now designated "fifteenth Louisiana regiment," as dropped by him to make room for another individual. But, upon my protesting against it, His Excellency the President reinstated him in the service, and promoted him to the rank of Lieutenant Colonel of the twenty-second Mississippi regiment, of which he is now commanding Colonel.

To strengthen these faulty postulates, and to maintain, based upon it, your view of my case that "no injustice has been done to me," you further allege in that letter, "Troops could not be enlisted abroad; they could only be engaged to come in. Hence, they had to be enlisted by the Confederate authorities here. Officers, too, might be engaged abroad, and arrangements were made to accept them likewise."

All this could have been done. I do not contest it; but I have not undertaken to go abroad to bring here men or officers to be enlisted

by the Confederate authorities. Nor have I ever made arrangements you speak of that "they were made to accept the officers likewise." My authority is too plain and unambiguous to admit so strange, and offensive to me, construction. Your predecessor who drew it and stipulated with me for its acceptance, never dreamed of giving it a construction so inconsistent with what I have undertaken to do for the Confederate States, and so adverse to the principles of the international law, to which I referred you in my letter of December 4, 1863, which defines the action urged by you, to be a "crime," a "kidnaping or stealing men," punishable by "hanging," and exposing the State, that would adopt or authorize it to a "war, unless suitable reparation is made." (*Vattel's Law of Nations, book III, chap. 2, section 15.*)

Resting your view in my case upon so strange, singular and faulty postulates, you conclude that letter :

"No pecuniary claim could arise against this Department unless from a commission issued; and as that of Brigadier General was not conferred, no power to pay of such office, or its equivalent, can exist. Besides the matter had long been determined before my connection with the Department. I do not see the force of equities presented in the case, but if they exist, they pertain to the jurisdiction of Congress and would not justify any action or recommendation on my part.

"Your obedient servant,

"JAMES A. SEDDON,  
"Secretary of War."

Disclaiming any intention to be indiscreet, I am compelled to answer this, your conclusion, by saying that, had the Confederate States no laws regulating and securing rights of individuals, acquired by dealing with their Government, my pecuniary claim might be barred by the arbitrary withholding of that commission to which I am entitled by having performed my part of the contract, stipulated with your predecessor. But thanks be to God, we live yet under the laws regulating our conduct and guarding our rights. I will, therefore, search to recover what is due to me where you direct me.

But, sir, I cannot close this communication without expressing the sense of my *deeply hurt* feelings. I lost all *material* worldly goods in 1834, because I did not bend my neck before the autocrat of Russia, and refused to accept, four times offered me, amnesty, when I was in Prussia, and subsequently in France. I carried only from the old world, and brought to the new, my honor, good name and character. That, for the purpose of subserving a mistaken political convenience of no public interest, an attempt should be made by a republican Executive of the Confederate States, whose cause I have embraced, to assign to me a *degrading position*, to deprive me of that which the Czar did not dare, and could not grasp: and that it should be attempted with unrelenting obstinacy, without the least regard to their own interest, and upon strained faulty postulates, is more than can be endured. I will not, however, turn a Marcius Cœlianus. But I sincerely wish I had not lived to record so sad a fact, which I am compelled to do in defence of my honor, good name and character. For, Mr. Secretary, it is not for

brigadier's commission that I am contending. I defend my right to it *solely* because the manner in which the command of my brigade was taken from me, independent of what I have said just above, would leave a suspicion of misdemeanor having been committed by me, unless these faulty and strained postulates, upon which the Executive bases its prosecution against me, be fully exposed to the view and recorded.

I have the honor to be, sir,

Your obedient servant,

G. TOCHMAN.